

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

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JUL 07 2016

U.S. DISTRICT COURT
MID. DIST. TENN.

CRAIG CUNNINGHAM, Pro-se

Plaintiff

v.

)
)
) CIVIL ACTION NO.: 3:16-1678)

The Credit Pros International Corporation, Jason M Kaplan, Esq, and Damon
Decrescenzo)

Defendants.

Plaintiff's Original complaint

1. The Plaintiff in this case is Craig Cunningham, a natural person and was resident of Davidson County at all times relevant to the complaint, and currently has a mailing address of 5543 Edmondson Pike, ste 248, Nashville, TN 37211
2. The Credit Pros International Corporation is a Florida Corporation operating from 60 Park Place, ste 200, Newark, NJ 07102 and can be served via registered agent National Corporate Research Ltd., Inc 115 North Calhoun Street, ste 4, Tallahassee, FL 32301.
3. Jason M Kaplan is a natural person, New Jersey resident and attorney and Vice President of the Credit Pros International who is can be served at 60 Park Place, ste 200 Newark, NJ 07102.
4. Damon Decresenzo is a natural person and president of the Credit Pros International who can be served at 60 Park Place Ste 200, Newark, NJ 07102.

Jurisdiction

5. Jurisdiction of this court arises as the acts happened in this county.
6. Venue in this District is proper in that the defendants transact business here, and the acts and transactions occurred here.

FACTUAL ALLEGATIONS

7. In 2015 and 2016, the Plaintiff received multiple automated calls to the Plaintiff's cell phone, 615-212-9191 which were initiated by an automated telephone dialing system and contained a pre-recorded message.
8. Although this list is not exhaustive and the Plaintiff anticipates identifying other calls in discovery, the Plaintiff alleges that the Plaintiff received calls on 9/22/2015, two calls on 9/24/2015, 9/25/2015, 9/29/2015, and 1/19/2016 and 615-727-8846 from. In addition, there were 7 text messages which constitute calls for the purposes of the TCPA 9/22/2015, 9/23/2015, 9/25/2015, and 12/24/2015.
9. The text messages stated *"Hi Craig, its Marlana from 'the Credit Pros. I called you today to discuss our journey to get you to financial freedom. Give me a call at 862-240-1933"* or slight variations thereof suggesting the messages were part of some automated Customer relationship management software.
10. Each and every call contained was initiated by an automated telephone dialing system as defined by the TCPA, 47 USC 227 et seq. Many of calls had a 5-7 second delay, which is characteristic of an automated telephone dialing system and then disconnected, which is again typical of automated telephone dialing systems.
11. The Defendants also used an automated telephone dialing system to call the

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11. The Defendants also used an automated telephone dialing system to call the

Plaintiff's cell phone in violation of the TCPA, 47 USC 227(b) and 47 USC 227(c)(5).

12. The calls violated 47 USC 227(b) as the calls were automated and placed to the Plaintiff's cell phone without the Plaintiff's consent and without an emergency purpose.
13. The calls violated 47 USC 227(c)(5) as codified under 47 CFR 64.1200(d) and (b) as the pre-recorded messages failed to identify the identity of the business/individual calling and the defendants failed to have a written policy available on demand for maintaining a do not call list, failed to train their agents in the use of a do-not-call list, failed to identify the seller and telemarketer and failed to maintain a record of consumer's requests to be added to the do-not-call.
14. These calls were knowingly and willfully placed as there were multiple calls placed within a 12 month period and after the Defendants had or should have ascertained they were calling the wrong person.

Actual Damages

15. The Plaintiff has suffered actual damages to include annoyance, frustration, harassment, loss of concentration, reduced usage of his phone, and reduced battery power of his phone and battery life.

CAUSES OF ACTION:

COUNT I

Violations of the Telephone Consumer Protection Act (TCPA)

16. Plaintiff Cunningham incorporates by reference all of the above paragraphs of

this complaint as though fully stated herein.

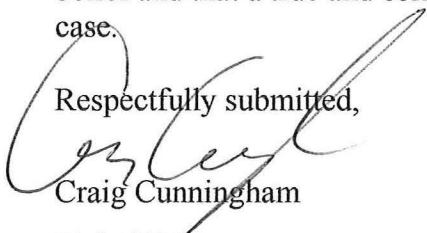
17. The foregoing actions by the Defendants constitute multiple breaches of the TCPA by placing automated calls without the Plaintiff's consent to the Plaintiff's Cell phone. The calls violated 47 USC 227(b) and 47 USC 227(c)(5) and the regulations under 47 CFR 64.1200 et seq.
18. The foregoing actions by the Defendants constitute multiple breaches of the FDCPA 15 USC 1692 et seq.

PRAYER FOR DAMAGES AND RELIEFS

- A. WHEREFORE, Plaintiff, Cunningham, respectfully prays and requests that judgment be entered against Defendants
- B. Statutory damages of \$3000 for each phone call and \$1,000 for violations of the FDCPA.
- C. Actual Damages of \$50,000
- D. Pre-judgment interest from the date of the phone calls.
- E. Attorney's fees for bringing this action as incurred; and
- F. Costs of bringing this action; and
- G. For such other and further relief as the Court may deem just and proper

I, Craig Cunningham, Affiant, hereby attest to and certify that the facts contained in the foregoing complaint are true and correct to the best of my knowledge, information and belief and that a true and correct copy of the foregoing was sent to the defendants in this case.

Respectfully submitted,


Craig Cunningham

Plaintiff, Pro-se

Mailing address:

5543 Edmondson Pike, ste 248

Nashville, Tn 37211

615-348-1977

June 29th 2016

5543 Edmondson Pike
Ste 248
Nashville, TN 37211

US District Court
801 Broadway
Nashville, TN 37203

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